GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri D.Hari Veera Govind, S/o late D.Chandra Shekar Rao, Occ: Railway Employee, Guntur District, against the proceedings Rc.No.1107/2005/C4, dated 20.04.2013 of the District Collector, Guntur, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes)- Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition allowed – Orders -Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.MS.No. 123 Dated: 02-08-2018
Read the following:

1. Proceedings of the District Collector, Guntur, Rc.No.1107/2005/C4, dt.20.04.2013.
2. Appeal Petition filed by Sri D.Hari Veera Govind S/o Late D. Chandra Shekar, Occ: Railway Employee R/o Guntur District before M (TW), No.213/M(TW)/2013, dt.24.06.2013.
3. Govt. Memo No.7690/CV.2/2013, Dated:02.07.2013.
4. From the DC&M, Guntur Dist., Rc.No.1107/2005/C4, dt:15.10.2014.
5. Govt. Memo No.7690/CV.2/2013, Dated: 18.03.2016, 29.04.2016 & 05.12.2016.
6. Written Arguments filed by appellant, before the Government, on 09.01.2017.
7. Govt. Memo No.7690/CV.2/2013, Dated: 18.08.2017, 26.09.2017, 08.11.2017, 28.11.2017, 10.01.2018 & 06.02.2018.
8. Written Arguments filed by appellant, through his Counsel, before the Appellate Authority , on 17.02.2018.
9. Govt. Memo No.7690/CV.2/2013, Dated: 20.03.2018.
10. Written arguments filed by the appellant before Appellant Authority on 07.04.2018.

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ORDER:

In the reference 1st read above, the District Collector, Guntur has issued orders cancelling ST-Yanadi caste certificate obtained from the then Mandal Revenue Officer, Guntur in the year 1996 by Sri D.Hari Veera Govind, S/o late D.Chandra Shekar Rao.

2. In the reference 2nd read above, Sri D.Hari Veera Govind, S/o late D.Chandra Shekar Rao, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, Guntur. After examining the said Appeal Petition, Government have admitted the Appeal Petition and granted stay on the proceedings of the District Collector, Guntur and called for the parawise remarks and connected records from the District Collector, Guntur in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, Guntur has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri D.Hari Veera Govind, S/o late D.Chandra Shekar Rao.

4. The said Appeal Petition has been posted for hearing on 09.04.2016, 14.05.2016, 24.12.2016, 16.09.2017, 21.10.2017, 18.11.2017, 16.12.2017, 27.01.2018, 17.02.2018 & finally on 07.04.2018 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 5th, 7th & 9th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The appellant has submitted written arguments in-support of his ST-Yanadi community claim through his Counsel, before the Government/ Appellate Authority on 09.01.2017, 17.02.2018 & 07.04.2018 and argued his case.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, Guntur and proceedings of the District Collector, Guntur, dated 20.04.2013 the Appellate Authority is observed that :

I. The appellant in his grounds has stated that his father viz., D. Chandra Shekar Rao, is the resident of Gopalakrishna Yanadi Colony of Guntur District since decades and belongs to ST-Yanadi community and his parents' marriage was inter-caste marriage (mother belongs to Telaga-OC), after their marriage, parents lived in the same society at Gopalakrishna Yanadi Colony and he have elder sister & brother viz., Smt. Dammala Surya Kumari and Dummala Venkateshwara Rao. Further he has stated that his parents were very poor and they were not even taken any interest about their

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welfare and they completed education in the ST Hostels at Guntur District. Further he has also stated that the Collector have failed to appreciate the statement of Kula Pedda i.e. Vice President namely Sri Tiruveedhula Srihara Rao of Gopalakrishna Yanadi colony that his father belongs to Yanadi community and the Director of Tribal Welfare, Hyderabad has declared that his father belongs to ST-Yanadi community vide Rc.No.2696/88/TRI-VC3, dated 22.11.1988.

II. The District Level Scrutiny Committee has observed that the appellant's father D.Chandrasekhara Rao is also resident of Gopalakrishna Yanadi Colony for about decades together and he belongs to YANADI – ST caste and he married lady who belong to Telaga caste. But appellant failed to furnish the particulars of the blood relatives on behalf of his father. The appellant also not produced any neighbors for corroborating his claim that his father resided for decades together except the statement produced by one Chevuri Chenchaiah. But, Chevuri Chenchaiah is not a blood relative. His claim that his parents not taken any interest about his welfare is also not supported by any evidences. The appellant was given plenty of time and ample opportunities to produce the blood relatives on his father's side. But the appellant failed to produce a single witness on his father's side. As per the instructions issued by the Government the caste of an individual has to be decided by Birth. Without establishing the caste of his father, it is not possible to consider his claim that he belongs to a particular caste. Even if it is presumed that his parents belong to different castes and he was a child of inter caste couple, his brought up in the social fold of his father community has to be proved. Based on the DLSC findings, the District Collector, Guntur has cancelled the appellant's ST-Yanadi community certificate.

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The Appellate Authority has observed that during the course of hearing of the case that the appellant submitted his arguments as per his grounds in appeal petition and stated that the lower authority failed to observe that his father belongs to Yanadi caste and resided at Gopalakrishna Yanadi Colony Guntur and he brought up in the fold of Yanadi Community, even though and his father marriage was inter-caste marriage with a woman of Telaga caste and entire school records of him discloses that he is ST and earlier his social status claim was enquired by the Tribal Welfare Department and confirmed that he belongs to ST and his caste certificate was issued basing on the due verification and enquiry and ST Community accepted him. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that the appellant in support of his claim produced evidence before the lower authority which discloses that his father resided along with his wife and children at Gopalakrishna Yandi Colony and brought up his children in the fold of Yanadi Community and further the brother and sister and their children are all belong to ST Yandi community and entire education shows as ST Yanadi. The said evidence clearly establishes that the appellant belong to ST Yanadi caste and as per the above, he discharge his burden as per the act and rules.

V. Further, it is observed that in Circular Memo. No. 10956/CV1/97-2, dt.16.2.1998 instructions were issued by the Government for issuance of Caste Certificates. As per the said instructions general instructions for claiming Community Certificates are as follows:

<u>General Instructions</u> :- (Applicable in all cases)
Where a person claims to belong to Scheduled Caste or Scheduled Tribe by birth it should be verified:-

i. that the person and the parents actually belong to the community claimed;

ii. that this community is included in the Constitution (Scheduled Castes and Scheduled Tribes) Order, 1950 as amended in 1976, which specified the Scheduled Castes or Scheduled Tribes in relation to the State of Andhra Pradesh;

iii. that the person belongs to the State of Andhra Pradesh and the area within the State in respect of which the community has been Scheduled;

[Contd..]

V. Status of the Off-spring of a couple where one of the spouses is a member of Scheduled Caste and the other that of a Scheduled Tribe.

As regards the status of the off-spring whose father is a member of Scheduled Caste and mother of a Schedule Tribe, the prima-facie presumption is in favour of the child possessing the caste of the father, in the large majority of cases, having regard to the concept of domicile explained in para IV above. Apart from this, it may also be a relevant criterion to see whether the child has been accepted and assimilated in the Scheduled Caste community to which the father belongs. The same principal will also apply to the case of an off-spring whose mother is a member of a Scheduled Caste and father of a Scheduled Tribe. However, each case has to be examined in the light of the attendant facts and circumstances. As per the said instructions stated supra, in the instant case, the appellant's father belongs to ST-Yanadi community and he brought up his children in the fold of ST-Yanadi community. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority failed to observe the finding of the concerned above.

6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No.16 of 1993), hereby allowed the Appeal Petition filed by Sri D.Hari Veera Govind, S/o late D.Chandra Shekar Rao, by upholding his Scheduled Tribe(Yanadi) community claim and ST-Yanadi caste certificate issued by the then Mandal Revenue Officer, Guntur and the Proceedings of the District Collector, Guntur issued in the reference 1st read above are set- aside.

7. The District Collector, Guntur is directed to take necessary consequential action in the matter.

8. The records (containing Rc.No.1107/2005/C4, pages-222) received from the District Collector, Guntur through the reference 4th read above, are returned herewith in original to the District Collector, Guntur and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Guntur.
(with original records) (BY RPAD)

Sri D.Hari Veera Govind S/o Late D.Chandra Shekar,
Occ: Railway Employee R/o H.No.7-20-578,
Sharadha Colony, 13th lane, Arundalpet Post, Guntur District.

Sri D. Hari Veera Govind,
S/o D. Chandra Sekhar Rao,
Near Sai Baba Temple,
Opp: 14th Lane of Sarada Colony,
Arundelpet(P.O), Guntur-522 002.

Sri M.V.V.Satyanarayana Raju, Advocate,
5th Line, Mallikharjunapet,
Guntur- 522 002.

The Senior Divisional Personnel Officer,
Divisional Railway Manager,
Personnel Branch, Guntur Division, Rail Vikas Bhavan,
Pattabhipuram, Guntur-522 006.(BY RPAD)

Copy to:

The Director of Tribal Welfare, A.P., Amaravathi.
The Director, TCR& TI, A.P., Amaravathi.
The PS to M(SWE & TWE).
The PS to Principal Secretary.(SW&TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER